IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRL.MISC.NO.52219-M OF 2006

DATE OF DECISION: SEPTEMBER 7, 2006

Santosh Kathuria and others

....PETITITIONERS

VERSUS

State of Haryana ....RESPONDENT

CORAM: HON'BLE MR.JUSTICE SATISH KUMAR MITTAL

Present: Mr. Jagdish Manchanda, Advocate,
for the petitioners.
Mr.Partap Singh , Sr.DAG, Haryana.
Mr.Harsh Kinra, Advocate,
for the complainant.

...

The petitioners apprehending their arrest in a non-bailable offence in case FIR No.420 dated 18.8.2006 registered under Sections 406/498-A/307/34 IPC (later on converted under Sections 304-B/34 IPC) at Police Station City, Karnal, have filed this petition under Section 438 Cr.P.C. for grant of anticipatory bail.

2. I have heard the counsel for the parties and gone through the contents of the FIR as well as the order dated 25.8.2006 passed by the Additional Sessions Judge, Karnal, whereby the anticipatory bail application of the petitioners has been dismissed.

3. In this case, the petitioners are mother-in-law, father-in-law, and brother-in-law of the deceased. The marriage of the deceased was performed with Rohit Kathuria son of petitioners No.1 and 2 on 12.2.2005 and only after about one year six months of the marriage, she died an unnatural death due to burning at her matrimonial home. In the FIR, there are clear allegations that after three months of the marriage, the petitioners

started taunting and harassing the deceased for bringing insufficient dowry. It was alleged that soon before the death, the petitioners and the husband of the deceased demanded Rs.one lac to purchase a shop in the market.

4. Counsel for the petitioners contends that in this case the occurrence took place on 16.8.2006, whereas the deceased expired on 22.8.2006. Counsel further contends that on 16.8.2006, the statement of the deceased was recorded by the Judicial Magistrate in which she did not implicate any person, and the said statement should be treated as dying declaration.

5. On the other hand, counsel for the respondent-State submitted that on 19.8.2006 the deceased wanted to make a statement narrating true facts. The prosecution filed an application before the Judicial Magistrate to record the fresh statement of the deceased, but the said application was dismissed on 19.8.2006. Thereafter the police recorded the statement of the deceased on 20.8.2006 in which she had levelled allegations against all the petitioners. Subsequently she died on 22.8.2006. Counsel contends that the statement dated 20.8.2006 should be treated as dying declaration. As per that statement, all the petitioners were involved in the alleged crime.

6. After hearing the counsel for the parties and keeping in view the aforesaid facts and nature of allegations levelled against the petitioners, without expressing anything on the merits of the case, I do not find the instant case as a fit case for grant of anticipatory bail to the petitioners.

7. Dismissed.

September 7, 2006 (SATISH KUMAR MITTAL)
vkg JUDGE